

WITHDRAWING AND RESTORING TO ITS PREVIOUS STATUS UNDER
THE CONTROL OF THE TERRITORY OF HAWAII CERTAIN LAND
AT KAAKAUKUKUI HONOLULU, OAHU, T. H.

MAY 24, 1956.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. ENGLE, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

[To accompany H. R. 6024]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 6024) to withdraw and restore to its previous status under the control of the Territory of Hawaii certain land at Kaakaukui, Honolulu, Oahu, T. H., having considered the same, report favorably thereon with amendments and recommend that the bill as amended to pass.

The amendment is as follows:

Page 6, line 8, strike the word "Road." and insert the following:

Road, reserving also to the United States the right to use approximately .10 acre of land in the northwest corner thereof now occupied by building known as No. 61 for so long as the present building remains on this property.

EXPLANATION OF THE BILL

H. R. 6024, introduced by Delegate Farrington, has as its purpose restoring to the Territory of Hawaii the possession, use, and control of 69.90 acres of land ceded by the Republic of Hawaii in 1898 to the United States for its use and no longer used or needed for Federal purposes.

Ceded and transferred to the United States under the Joint Resolution of Annexation of July 7, 1898 (30 Stat. 750), the land in question is located in the Kaakaukui section of Honolulu on the island of Oahu—the Fort Armstrong area—and for a number of years was presumed by Territorial officials to be subject to restoration by Presidential Executive order under the provisions of existing law.

LEGISLATIVE BACKGROUND

At hearings in Honolulu in December 1954, before a special subcommittee of the House Committee on Interior and Insular Affairs, Territorial officials reiterated their long-held view that the governing provision with respect to lands such as those here involved in section 91 of the Hawaii Organic Act (act of April 30, 1900, 31 Stat. 159, 48 U. S. C. 511).

Section 91 of the Organic Act, with reference to—

* * * the public property ceded and transferred to the United States * * * under the joint resolution of annexation,

taken for the uses and purposes of the United States, provides that—

* * * any such public property so taken for the uses and purposes of the United States may be restored to its previous status by direction of the President; * * *.

The land here involved has been taken for the use and purposes of the United States, but certain portions of it have, in addition, been the subject of subsequent legislation (the Public Buildings Act of 1949, 63 Stat. 178; and the act of August 5, 1939, 53 Stat. 1209). Successive efforts to effect restoration by administrative action have failed, and the Justice Department has held that the 1939 and 1949 statutes constitute such an assertion of legislative authority over the land in question as to terminate the President's authority to restore the land to its previous status by Executive order, and legislation is, therefore, needed to accomplish the result sought by H. R. 6024.

FEDERAL LANDHOLDINGS AND LOCAL NEEDS

The 1954 hearings in Hawaii developed this statistical picture: The Territory of Hawaii embraces 4,118,822 acres of land; of this area, 303,000 acres, or 7.4 percent were owned or controlled by the Federal Government as of January 1, 1954, for all purposes. In terms of real property exempt from taxation, this means that 24.55 percent of the total tax base was exempt from local taxation, and closed to private development and utilization by reason of Federal land ownership.

The hearings also developed information which reveals the changing statistical picture with respect to military landholdings. Pre-World War II military holdings in Hawaii totaled 42,000 acres. At the peak of World War II, this total climbed to 587,000 acres, and as of 1954, it appeared that the military landholdings had leveled at approximately 182,000 acres—9,000 held by the Air Force, 135,000 held by the Navy, and 38,000 acres held by the Army. Spokesmen for the Military Establishment in Hawaii expressed a highly cooperative attitude in their 1954 testimony and recent events indicate that this attitude has been translated in several instances into positive action calling for releases of lands held and not essential to the military effort. The Territory of Hawaii as of today has an estimated population of more than 545,000 people. The island of Oahu contains more than 375,000 of the Territory's total population, or nearly 73 percent. The island of Oahu also serves as a base for very substantial military holdings: The naval supply center and naval radio station; Lualualei

Naval Ammunition Depot; the United States Naval Station and Fleet Training Center at Pearl Harbor; Marine Corps air station, Kaneohe Bay; Fort Ruger; Fort De Russy; Fort Armstrong; the National Memorial Cemetery of the Pacific (Punchbowl); Sand Island Military Reservation; Kapalama Military Reservation; Fort Shafter; Tripler Army Hospital; Fort Kamehameha; Helemano Military Reservation; Waikakalaua Military Reservation; Kipapa Military Reservation; Waimano Military Reservation; Schofield Barracks; Kahuku training area; Kaena Point training area; Makua training area; Waianae Kai Military Reservation; Hickam Air Force Base; Wheeler Air Force Base; Bellows Air Force Base; and Dillingham Air Force Base.

More than half of Hawaii's total population—51.9 percent—is located in the city of Honolulu, which has grown from a population of 180,000 in 1940 to nearly 250,000 in 1950, with an estimated population today of more than 268,000. Studies by the Honolulu Water Board, and other planning studies, aimed at projecting the island's 1965 population place it at 500,000 people.

Honolulu, aptly labeled the "crossroads of the Pacific," in addition to its extensive civilian and military air facilities, and the demands made on port facilities by the Navy's Pacific Fleet, and ships of the Army and Navy transport service, is at present a regular port of call for steamship lines operating some 70 ships on regular schedules. Honolulu, in addition to the several companies running to the United States west coast and through Panama to the east coast, is a main port of call for ships running from the United States to Australia, New Zealand and the Orient, from Japan to Mexico, and for United States around-the-world cruises.

One of its greatest current needs is space for additional warehousing, dockage, and other freight handling facilities, with anticipated future expansion there is little doubt that a continuing need for such facilities will exist.

LAND INVOLVED IN H. R. 6024

The land involved in H. R. 6024 is situated in the heart of the industrial waterfront and harbor area of the city of Honolulu, roughly midway between Pearl Harbor and Diamond Head. As such, it is extremely valuable and is urgently needed by the Territory, generally in connection with the economic development of this fast-growing area, and specifically in connection with the improvement and expansion of necessary facilities for warehousing and other freight handling.

The committee agrees with the Territorial government of Hawaii and the Department of Interior in their position that the limited use to which the land in question is currently being put by certain Federal agencies does not justify its retention by the United States and that the land should consequently be restored to the possession, use, and control of the Territory.

The 69.90 acres involved in H. R. 6024, as the attached favorable report of the Department of the Interior indicates, may best be described by dividing it into three segments:

- (1) An area comprising 28.69 acres constituting submerged land under the jurisdiction of the General Services Administration and not now in use.
- (2) An area of 21.13 acres constituting submerged land under the control of the Department of the Army and not now in use

for any purpose; this area constitutes a part of the Fort Armstrong Military Reservation.

(3) The remaining area of 20.08 acres is land above water under the jurisdiction of the Department of the Army, and a part of the Fort Armstrong Military Reservation.

The Governor of Hawaii advised the Department of the Interior that on the basis of an Army report the 20.08 acres involved in the third tract in question contains the improvements set out in the Department's report, with present use as indicated therein.

H. R. 6024 would require that the Territory pay fair value for the improvements on the property proposed therein to be restored to the Territory. Payment in this manner would constitute an equitable assessment against the Territory in connection with any necessary relocation of the minor facilities in use on the land involved, with the fair value to be determined by a board of 3 appraisers to be compensated by the Territory, 1 to be appointed by the Territory, the second by the Secretary of the Army, and the third by the 2 appraisers so appointed.

THE DEFENSE DEPARTMENT REPORT

The Department of the Army, to which responsibility for reporting the views of the Department of Defense on H. R. 6024 was delegated, concludes, after a description of the land involved, with this statement:

However, the Department of Defense has no firm immediate plans for the development and use of this property which would justify its opposition to the disposition for which H. R. 6024 provides.

H. R. 6024, as reported, contains a reservation in section 1 which will permit access to and from the Honolulu Area Engineer Reservation over the lands proposed to be restored to Territorial use. In addition, in response to a recommendation of the Defense Department, section 1 has been amended to reserve to the United States the right to use approximately 0.10 acre of land now containing a building known as No. 61 for so long as the present structure remains on the property.

The committee notes that enactment of the bill would still leave the United States in the possession and control of 17.44 acres immediately adjacent to the present location. Of this total, 2.79 acres will be under the jurisdiction and control of the Department of Defense, 7.9 above-water acres and 1.30 submerged acres of which will be under the jurisdiction and control of the General Services Administration, and 5.76 acres of which will be under the jurisdiction and control of the Immigration and Naturalization Service.

These 17.44 acres are largely undeveloped, and appear to be suitable for relocation of some or all the facilities located on the land proposed to be transferred and would also appear to furnish space for possible future expansion. In the event that a relocation of such facilities elsewhere may be necessary, and further if it should develop that the Army has no suitable site for such relocation, the Territory has indicated that it is both willing and anxious to assist the Army in obtaining a relocation site.

COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

The Legislature of the Territory of Hawaii, the Governor of Hawaii, and the Department of the Interior have recommended the return to Hawaii of the land included in H. R. 6024. The committee has concluded, with the Department of the Interior, that in the light of the Resolution of Annexation and section 91 of the Hawaii Organic Act, the use of valuable city property by the military is justified only when the interests of national security clearly makes such control essential, either presently, or in the immediately foreseeable future.

The committee believes that the intent of Congress in enacting section 91 of the Organic Act was clear, viz, that lands once taken for the use and purposes of the United States from the Territory should not be retained in the absence of a showing of immediate and pressing need on the part of the United States for continuing use for a recognized Federal purpose.

The House Committee on Interior and Insular Affairs has, during the present session, conducted a number of hearings involving the policies and procedures affecting the utilization and withdrawal of public domain lands by Federal agencies, with particular emphasis on holdings of the Defense Establishment.

The hearings to date reveal that total military land holdings in the United States increased from 4.3 million acres in 1940 to 25 million acres in 1945, dropped to 21 million acres in 1953, climbed to a new high of 25.4 million acres in 1955, and that present applications for additional public land withdrawals total in excess of 8 million additional acres requested for use by defense agencies. To the extent that these land holdings may be related to total military personnel, it is noteworthy that in 1940 United States military personnel totaled 458,000; in 1945 12.1 million; in 1953, 3.5 million; with an indicated total personnel strength of approximately 3 million as of the present date.

The military argues—and members concede—that advanced defense weapons technology, increased combat aircraft and missiles speed and range suggest a need for additional training and testing areas and expanded permanent bases. On the other hand, it is apparent that the Military Establishment has not in all instances recognized that—concurrent with its asserted expansion requirements—there exist matching expansion demands for the civilian economy and domestic population growth. It is clear that the latter dictates a need for continuing reevaluation of defense holdings, particularly in heavily urbanized areas, and that the time to initiate such reevaluation is now.

When there is a collision between military and civilian requirements, it would seem that the measure must be "highest and best use." If this premise is sound, then tax-exempt parade grounds, baseball diamonds, and general recreation areas—together with the frequently limited horizontal housing facilities making them desirable or necessary—in the midst of heavily urbanized areas must be considered as relocatable when vertical civilian development and industrial expansion abutting such areas establish the need for application of a higher and better use yardstick, including the possibility of unlocking real property tax potential.

In short, as the members of this committee have observed in the past, the program for defense of our Nation's human and natural

resources should not—and cannot—be so conducted as to destroy the very resources and assets it is aimed at preserving.

In the instant case it does not appear that the national security interests of the United States at this time require that the land in question be retained by the United States, and the committee takes this opportunity to reiterate the stand expressed by its members during the 1954 hearings in Hawaii that the Defense Establishment carefully evaluate its current holdings and future requirements so as to minimize impact on the domestic economy of a rapidly developing area, consistent with the long-range requirements of the military mission.

In summary, the committee members are convinced that the continued use of valuable urban property by the military is justified only when national security clearly makes such control and use essential, and in the absence of such justification in the instant case recommend enactment of H. R. 6024, as amended.

The reports of the Departments of Interior and Defense are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., March 13, 1956.

Hon. CLAIR ENGLE,
*Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.*

MY DEAR MR. ENGLE: This will reply to your request for the views of this Department on H. R. 6024, a bill to withdraw and restore to its previous status under the control of the Territory of Hawaii certain land at Kaakaukukui, Honolulu, Oahu, T. H.

I recommend that the bill be enacted.

H. R. 6024 would restore to the possession, use, and control of the Territory of Hawaii 69.90 acres of land which formerly constituted a part of the public lands of Hawaii. The land in question was ceded and transferred to the United States under the Joint Resolution of Annexation (30 Stat. 750). Under section 91 of the Hawaiian Organic Act (48 U. S. C., sec. 511), such land remains in the possession, use, and control of the Territory unless taken for the uses and purposes of the United States, but if so taken, it may subsequently be restored to its previous status by Executive order of the President.

The land involved in H. R. 6024 has been taken for the uses and purposes of the United States, but certain portions of it have, in addition, been the subject of subsequent legislation (the Public Buildings Act of 1949, 63 Stat. 178, and the act of August 5, 1939, 53 Stat. 1209). The Justice Department has held that such statutes constitute such an assertion of legislative authority over the land in question as to terminate the President's authority to restore the land to its previous status by Executive order, and legislation is, therefore, needed to accomplish the result sought by H. R. 6024.

The land involved in H. R. 6024 is situated in the heart of the industrial water front and harbor area of the city of Honolulu. As such it is extremely valuable and is urgently needed by the Territory, generally in connection with the economic development of this fast-growing area and specifically in connection with the improvement and expansion of the facilities for warehousing and other freight handling. It is the

position of the Territorial government of Hawaii and of this Department that the limited use to which the land in question is currently being put by certain Federal agencies does not justify its retention by the United States and that the land should consequently be restored to the possession, use, and control of the Territory.

The 69.9 acres involved in H. R. 6024, may for purposes of this report, be divided into three segments:

(1) An area comprising 28.69 acres constitutes submerged land under the jurisdiction of the General Services Administration and not now in use.

(2) An area of 21.13 acres constitutes submerged land under the control of the Department of the Army and not now in use for any purpose.

(3) The remaining area of 20.08 acres is land above water under the jurisdiction of the Department of the Army. This area, together with the tract described in (2) above, constitutes a part of the Fort Armstrong Military Reservation. The Governor of Hawaii informs us that on the basis of an Army report, the 20.08 acres in question contain the following improvements, in use at this time for the following purposes:

(a) A vacant administrative building that is not suitable for permanent or long-term occupancy, for which the Army has no plans for future use.

(b) 9 cottages, 5 of which are occupied by officers and 4 by enlisted personnel.

(c) A transformer vault.

(d) A mess hall and barracks in very poor condition, now vacant.

(e) A laundry plant in poor condition, now vacant.

(f) Two boiler plants, one of which is inoperable, and both of which are now inactive.

(g) A motor pool, which is not now being used to capacity, and which has two gas pumps and a vehicle repair shop of the Honolulu area engineer. Covered parking is provided for the Honolulu area engineer and other agencies.

(h) Enlisted men's barracks which are in poor condition and now vacant.

(i) Five storehouses in fair to poor condition, two of which are vacant.

(j) Two warehouses that are presently under 5-year revocable permit to GSA for use as a storage and repair shop.

(k) A theater which is in poor condition and which is in only limited use. The seats and sidewalls have been removed.

(l) A tennis court for Fort Armstrong personnel.

(m) The former Army finance office, which is in fair condition, and the vault of the finance office, neither of which is in use or which the Army plans to use.

(n) An administrative building in use by the Civil Air Patrol which is currently under 5-year revocable permit to the Department of the Air Force.

(o) A garage, of corrugated roof and siding, which is in poor condition.

(p) Two open-shed type buildings that are not used and not suitable for use.

(q) A coffee bar and refreshment hut in fair condition, vacant, and for which there is no planned use.

(r) A former parade ground which is used from time to time as a baseball field.

In view of the location of this tract in an area of great value for industrial purposes, we do not believe that retention of the 20.08 acres by the United States for the limited purposes described immediately above can be justified. On the other hand, there are improvements on the property for which, under H. R. 6024, the Territory would pay the fair value. Such a payment would constitute an equitable assessment against the Territory in connection with any relocation that might be necessary of the minor facilities in use on the land involved. The fair value would be determined by a board of 3 appraisers, to be compensated by the Territory, 1 to be appointed by the Territory, the second by the Secretary of the Army and the third by the 2 appraisers so appointed.

Enactment of the bill would still leave the United States in the possession and control of 17.44 acres immediately adjacent to the present location, (1) 2.79 acres of which would be under the jurisdiction and control of the Department of Defense, (2) 7.59 above-water acres and 1.30 submerged acres of which would be under the jurisdiction and control of the General Services Administration, and (3) 5.76 acres of which would be under the jurisdiction and control of the Immigration and Naturalization Service. These 17.44 acres are largely undeveloped, and would appear to be suitable for relocation of some or all of the facilities described in (3) above and would also appear to furnish space for expansion. To the extent that a relocation of such facilities elsewhere may be necessary, and should it develop that the Army has no suitable site for this purpose, the Territory is both willing and anxious to assist the Army in obtaining such a site.

The Legislature of the Territory of Hawaii, in Joint Resolution 30 of the 1953 regular session, requested the return of the land included in H. R. 6024. We consider that in the light of the Resolution of Annexation and section 91 of the Organic Act, cited above, the use of valuable city property by the military is justified only when the interests of national security clearly make such control essential. The land which would be restored to the Territory by enactment of H. R. 6024 belonged to the former Republic of Hawaii. The Territory's continuing need for such land must always be assumed. In this instance, however, it need not be assumed, for it is readily apparent. To our knowledge, there has been no showing that the national security interests of the United States at this time require that the land in question be retained by the United States. I, therefore, recommend that H. R. 6024 be enacted.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

DEPARTMENT OF DEFENSE,
March 13, 1956.

HON. CLAIR ENGLE,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H. R. 6024, 84th Congress, a bill to withdraw and restore to its previous status under the control of the Territory of Hawaii certain land at Kaakaukui, Honolulu, Oahu, T. H. The Secretary of Defense has delegated to the Department of the Army the responsibility for reporting the views of the Department of Defense thereon.

The purpose of this measure is to restore to the Territory of Hawaii the possession, use, and control of certain lands and improvements thereon which are a part of public lands ceded and transferred to the United States by the Republic of Hawaii under Joint Resolution No. 55 of July 7, 1898 (30 Stat. 750).

The Department of the Army, on behalf of the Department of Defense, has considered H. R. 6024. The bill describes an area comprising 69.90 acres at Fort Armstrong in the city and county of Honolulu, T. H. The land within the area described which is held by the Department of the Army consists of 21.12 acres of submerged land in Honolulu Harbor and 20.08 acres comprising all of the main post of Fort Armstrong under Department of the Army control with the exception of approximately 2.79 acres utilized as the Honolulu Area Engineer Reservation. The remainder of the land areas described in the bill consist principally of submerged lands in Honolulu Harbor which were included in the transfer of 39.65 acres of Fort Armstrong by the Secretary of the Army to the General Services Administrator on November 12, 1949, pursuant to the act of Congress approved June 12, 1949 (63 Stat. 178).

The Department of the Army's interest in the retention of Fort Armstrong has been directed principally to the 20.08 acres comprising the substantial portion of the main post area. Most of the military structures located within this area were constructed at the close of World War I and are in a state of disrepair, which prompted the decision recently to demolish approximately 50 percent of the structures in the area. However, some usable dependent housing and storage facilities are located within the area and are being used for these purposes. Of greater economic significance is the fact that this acreage provides an expansion potential for the adjoining Honolulu Area Engineer Reservation as well as a site for the possible relocation of vital defense activities now occupying approximately 6.5 acres known as the Esplanade Lots in downtown Honolulu for which the Territory of Hawaii has also indicated a need. The feasibility of reacquiring this area for requirements of the Federal Government in the future would be determined largely by the type of development and use of the property after its restoration to the possession, use, and control of the Territory. However, the Department of Defense has no firm immediate plans for the development and use of this property which would justify its opposition to the disposition for which H. R. 6024 provides.

The Honolulu Area Engineer Reservation is intensively used by the Department of the Army and other Federal agencies. In view of its location, access to and from the reservation through the main post area of Fort Armstrong is essential. The reservation in section 1 of the bill appears to be adequate for this purpose. However, a storage facility belonging to the Honolulu area engineer extends approximately 0.10 acre over the main post area. It is recommended that the above-mentioned reservation be amended to provide for the use of this parcel in conjunction with the Honolulu Area Engineer Reservation so long as required therefor.

Enactment of this measure will not result in any apparent increase in budgetary requirements of the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

The Committee on Interior and Insular Affairs recommends enactment of H. R. 6024, as amended.

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